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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,970	11/13/2003	Brian Birrenkott	906346039245	9431
28104	7590	09/21/2004	EXAMINER	
JONES DAY 77 WEST WACKER CHICAGO, IL 60601-1692			KIM, CHRISTOPHER S	
			ART UNIT	PAPER NUMBER

3752

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/712,970

Applicant(s)

BIRRENKOTT ET AL.

Examiner

Christopher S. Kim

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/13/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 1 and 27 are objected to because of the following informalities: the phrase "such that gravity exerts a downward force on the first fluid" seems superfluous. Gravity by definition exerts a force towards the center of the body which generates the gravitational force on all objects within the body's gravitational field. Conversely, it is impossible for gravity to exert an upward, or non-downward, force. It would appear that "gravity fed" would be more appropriate. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 4, 5, 7, 8, 9, 12-21, 23, 25-29 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Shepard (2,961,335).

Shepard discloses a spraying device comprising: a cartridge 2; a sprayer body 1; a valve 15, 47, 48; an orifice 5, 13; an anti-siphon unit 53.

4. Claims 1, 2, 4, 6-9, 14, 15, 17, 19, 20, 22, 23, 27, 28 and 30 rejected under 35 U.S.C. 102(b) as being anticipated by Tryon (5,727,736).

Tyron discloses a spraying device comprising: a cartridge 24; a sprayer body 26; a valve 60; an orifice 52,56, (orifice is disc 78); a metering disc/spray nozzle 78.

5. Claims 1-5, 7-9, 14-17, 19-21, 23, 27-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Sweeney (813,254).

Sweeney discloses a spraying device comprising: a cartridge 1; a sprayer body 10, 15; a valve 14; an orifice 4, 12; a spray nozzle 19. Sweeney discloses, on page 1, line 17, "air or other fluid" which is inclusive of water.

6. Claims 1, 2, 4, 5, 7-11, 14-17, 19-21, 23, 24, 27-29, 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Bitsakos (5,069,389).

Bitsakos discloses a spraying device comprising: a cartridge 36; a sprayer body 10; an orifice/spray nozzle 14, 86, 100.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (703) 308-8336. The examiner can normally be reached on Monday - Thursday, 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar can be reached on (703) 308-2087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher S. Kim
Primary Examiner
Art Unit 3752

CK